
HOUSE BILL No. 1402

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-1-17.

Synopsis: Reduction or suspension of sentences. Allows a court to modify a defendant's sentence without the approval of a prosecuting attorney and place the defendant in a community corrections program: (1) if, when sentencing the defendant, the court could have placed the defendant in a community corrections program as an alternative to commitment to the department of correction; and (2) regardless of when the original sentencing hearing was conducted.

Effective: July 1, 2003.

Smith V

January 14, 2003, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1402

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-38-1-17, AS AMENDED BY P.L.291-2001,
2 SECTION 224, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) Within three hundred
4 sixty-five (365) days after:

- 5 (1) the defendant begins serving ~~his~~ **the defendant's** sentence;
6 (2) a hearing at which the defendant is present and of which the
7 prosecuting attorney has been notified; and
8 (3) obtaining a report from the department of correction
9 concerning the defendant's conduct while imprisoned;

10 the court may reduce or suspend the sentence. The court must
11 incorporate its reasons in the record.

12 (b) If more than three hundred sixty-five (365) days have elapsed
13 since the defendant began serving the sentence and after a hearing at
14 which the convicted person is present, the court may reduce or suspend
15 the sentence, subject to the approval of the prosecuting attorney.
16 However, if in a sentencing hearing for a defendant conducted ~~after~~
17 ~~June 30, 2001~~, **at any time** the court could have placed the defendant



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1 in a community corrections program as an alternative to commitment
2 to the department of correction, the court may modify the defendant's
3 sentence under this section without the approval of the prosecuting
4 attorney to place the defendant in a community corrections program
5 under IC 35-38-2.6.

6 (c) The court must give notice of the order to reduce or suspend the
7 sentence under this section to the victim (as defined in IC 35-35-3-1)
8 of the crime for which the defendant is serving the sentence.

9 (d) The court may suspend a sentence for a felony under this section
10 only if suspension is permitted under IC 35-50-2-2.

11 (e) The court may deny a request to suspend or reduce a sentence
12 under this section without making written findings and conclusions.

13 (f) Notwithstanding subsections (a) and (b), the court is not required
14 to conduct a hearing before reducing or suspending a sentence if:

15 (1) the prosecuting attorney has filed with the court an agreement
16 of the reduction or suspension of the sentence; and

17 (2) the defendant has filed with the court a waiver of the right to
18 be present when the order to reduce or suspend the sentence is
19 considered.

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